



## ***City of El Paso – City Plan Commission Staff Report***

**Case No:** PZCR16-00004  
**Application Type:** Partial Condition Release  
**CPC Hearing Date:** November 17, 2016  
**Staff Planner:** Andrew Salloum, 915-212-1643, [salloumam@elpasotexas.gov](mailto:salloumam@elpasotexas.gov)

**Location:** 7122 Gateway East Boulevard  
**Legal Description:** A portion of Lots 7 through 11, Block 11, Eastside Industrial District, City of El Paso, El Paso County, Texas  
**Acreage:** 0.686 acres  
**Rep District:** 3  
**Zoning:** M-1/special contract (Light Manufacturing/special contract)  
**Existing Use:** Restaurant and furniture store  
**C/SC/SP/ZBA/LNC:** Special contract dated October 23, 1956  
**Request:** To release of Condition #5, Special contract dated October 23, 1956  
**Proposed Use:** Extend height of restaurant's sign

**Property Owner:** ASLM LTD  
**Applicant:** Craig Wood "Blake's Lotaburger"  
**Representative:** Gilda Maraboto

### **SURROUNDING ZONING AND LAND USE**

**North:** C-4 (Commercial) / The Fountains at Farah and Interstate 10 Freeway  
**South:** M-1/special contract (Light Manufacturing/special contract) / Office warehouse  
**East:** M-1/special contract (Light Manufacturing/special contract) / Furniture store  
**West:** M-1/special contract (Light Manufacturing/special contract) / Restaurant & Industrial Equipment Supplier

**PLAN EL PASO DESIGNATION:** G-7, Industrial and/or Railyards (Mission Valley Planning Area)

**NEAREST PARK:** Vista Del Valle Park (3,536 feet)

**NEAREST SCHOOL:** Del Norte Heights Elementary (3,234 feet)

### **NEIGHBORHOOD ASSOCIATIONS**

Mission Valley Civic Association

### **NEIGHBORHOOD INPUT**

Notice of a Public Hearing was mailed to all property owners within 300 feet of the subject property on November 2, 2016. The Planning Division has not received any phone calls or letters in support or opposition to the condition release request.

### **CASE HISTORY**

On October 23, 1956, City Council approved the rezoning request for the subject property to M-1 (Light Manufacturing) and imposed the following special contract conditions summarized below (see Attachment #4):

- 1. No premises or building in said district shall be used for other than industrial, commercial and warehousing purposes.*
- 2. None of said building sites designated on said map or plat may be used for any purpose or use which would constitute a nuisance or which would cause the omission of odors which are injurious or noxious to persons.*
- 3. No building or structure shall ever be erected on said building sites which shall be nearer than 35*

- feet to the property line of the road now designated as F.M. 2233 (I-10) or nearer than 25 feet to the line of any other established access road or frontage road or any cross streets or nearer than 15 feet to the side line of any property.*
- 4. No structures (including billboards) shall be erected within the areas required for front yard, side street yards without the approval of the City Council.*
  - 5. No billboard or advertising signs other than those identifying the name, business, and products of the person or firm occupying the premises shall be permitted on any building, see attachment #4, (requesting to release this condition).*
  - 6. No accessory building use shall be construed to permit the keeping of articles, goods, or materials in the open or exposed to public view on the front one-third of the parcel, see attachment #4.*
  - 7. Off-street parking facilities on the premises in back of the front yard line shall be provided on each building site to provide adequate space for customers, employees and tenants of the business on said sites.*
  - 8. No loading docks will be permitted to front on the highway now known as F.M. 2233 (I-10), see attachment #4.*
  - 9. No plant of any nature shall create noise in excess of the limits in the following table, see attachment #4.*
  - 10. No plant shall permit emission of smoke from any source whatever during normal operation of a density greater than that density described as No. 1 on the Ringlemann Chart, see attachment #4.*
  - 11. No plant shall employ any process that will emit any dirt, dust, sprays, or mists into air that will be transmitted beyond their property lines during normal operations.*
  - 12. Incandescent lights shall be so located and shielded that no incandescent light source will be directly visible from the right of way of F.M. 2233 (I-10), see attachment #4.*
  - 13. No plant shall emit any toxic or corrosive gas under any condition.*
  - 14. All welding and heating operation normal to any plant shall be screened from the view of adjacent properties or roadways.*
  - 15. All sites shall be landscaped and maintained by the planting of grass in the front set back area, see attachment #4.*
  - 16. Development of all parcels shall conform to the requirements of the Comprehensive Zoning Ordinance of the City of El Paso.*

#### **APPLICATION DESCRIPTION**

The applicant is requesting to release Condition No. 5 imposed on the property by special contract, dated October 23, 1956, No billboard or advertising signs other than those identifying the name, business, and products of the person or firm occupying the premises shall be permitted on any building. No billboard or identifying sign shall be erected to a height greater than five feet higher than the main building on the same site. A sign not to exceed 10' x 20' in size offering the premise for sale or lease may be erected, see Attachment 5. The proposed sign pole shall comply with the current sign regulation in the City of El Paso Code requirement prior to the issuance of a sign permit.

#### **PLANNING DIVISION RECOMMENDATION**

Pending recommendation.

#### **Plan El Paso- Future Land Use Map Designation**

All applications for a condition release review shall demonstrate compliance with the following criteria:

G-7 Industrial and/or Railyards: This sector applies to industrial parks, large free-standing industrial uses, refineries, non-military airfields, trucking terminals, and mines, all on large tracts in areas dominated by vehicles. This sector is essential to El Paso's economy; however, when an industrial use becomes obsolete, there can be potential for mixed-use redevelopment of the site. This sector also includes the existing rail yards which could be redeveloped as mixed-use communities if the rail yards were moved out of town.

The purpose of the M-1 (Light Manufacturing) district is to provide locations for light-intensity industries involving manufacturing, assembling, distribution and warehousing. It is intended that the districts will serve the entire city and will permit supporting commercial uses. The regulations of the districts are intended to preserve a light industrial nature particularly with regard to noise, smoke, odors, dust,

vibrations and other noxious conditions.

**COMMENTS:**

**Planning and Inspections Department - Planning Division - Transportation**

No objections to a condition release.

All existing and/or proposed paths of travel (accessible sidewalks, wheelchair access curb ramps and driveways) located within public rights-of-way shall follow the City of El Paso Design Standards for Construction and be ADA/TAS compliant.

**Planning and Inspections Department – Building and Development Permitting**

No objections to proposed condition release.

**Planning and Inspections Department - Land Development**

No objections to proposed condition release.

Approval of the site plan by CPC constitutes a determination that the applicant is in compliance with the minimum provisions. Applicant is responsible for the adequacy of such plans, insuring that stormwater is in compliance with ordinances, codes, DSC, and DDM. Failure to comply may require the applicant to seek re-approval of the site plans from CPC.

**Fire Department**

Recommended approval.

**Sun Metro**

Sun Metro does not oppose this request.

**El Paso Water Utilities**

We have reviewed the request described above and provide the following comments:

1. EPWater does not object to this request.

Water:

2. There is an existing 8-inch diameter water main along Gateway East Boulevard. This water main is available for service.

3. EPWater records indicate (1) ¾" service meter, (1) 8" Fire Line and (1) 1-1/2" service meter on the property with 7122 Gateway East Boulevard as the services address.

4. Previous water pressure from fire hydrant #3808 located at 7122 Gateway East Blvd. and 550' E of Hawkins Blvd., has yielded a static pressure of 105 psi, a residual pressure of 85 psi, and a discharge of 787 gallons per minute.

5. The owner should, for his own protection and at his own expense shall install at the discharge side of each water meter a pressure regulator, strainer and relief valve, to be set for pressure as desired by the customer. The lot owner shall be responsible for the operation and maintenance of the water pressure regulator device.

Sanitary Sewer:

6. There is an existing 8-inch diameter sanitary sewer main along the 40' R.R. Easement. This main is available for service.

General:

7. Gateway East Boulevard is a Texas Department of Transportation (TxDOT) right-of-way. All proposed water and sanitary sewer work to be performed within Gateway East Boulevard right-of-way requires written permission from TxDOT

8. EPWater requires a new service application to provide additional services to the property. New service applications are available at 1154 Hawkins, 3rd floor and should be made 6 to 8 weeks in advance of construction to ensure water for construction work. A site plan, utility plan, grading and drainage plans, landscaping plan, the legal description of the property and a certificate-of-compliance are required at the time of application. Service will be provided in accordance with the current EPWater Rules and Regulations. The applicant is responsible for the costs of any necessary on-site and off-site extensions,

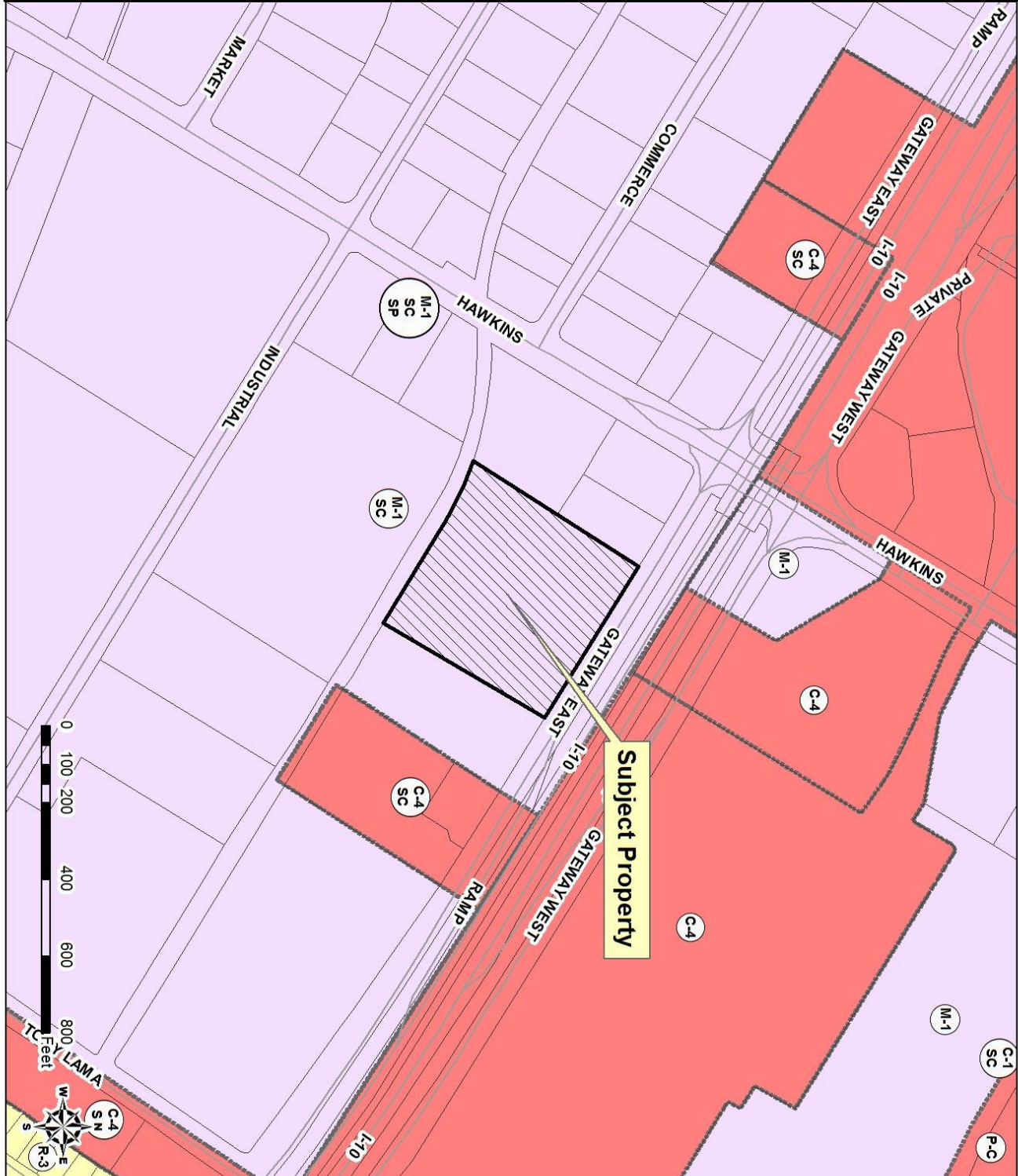
relocations or adjustments of water and sanitary sewer lines and appurtenances.

**Attachments**

1. Zoning Map
2. Aerial Map
3. Future Land Use Map
4. Special Contract Dated October 23, 1956

ATTACHMENT 1: ZONING MAP

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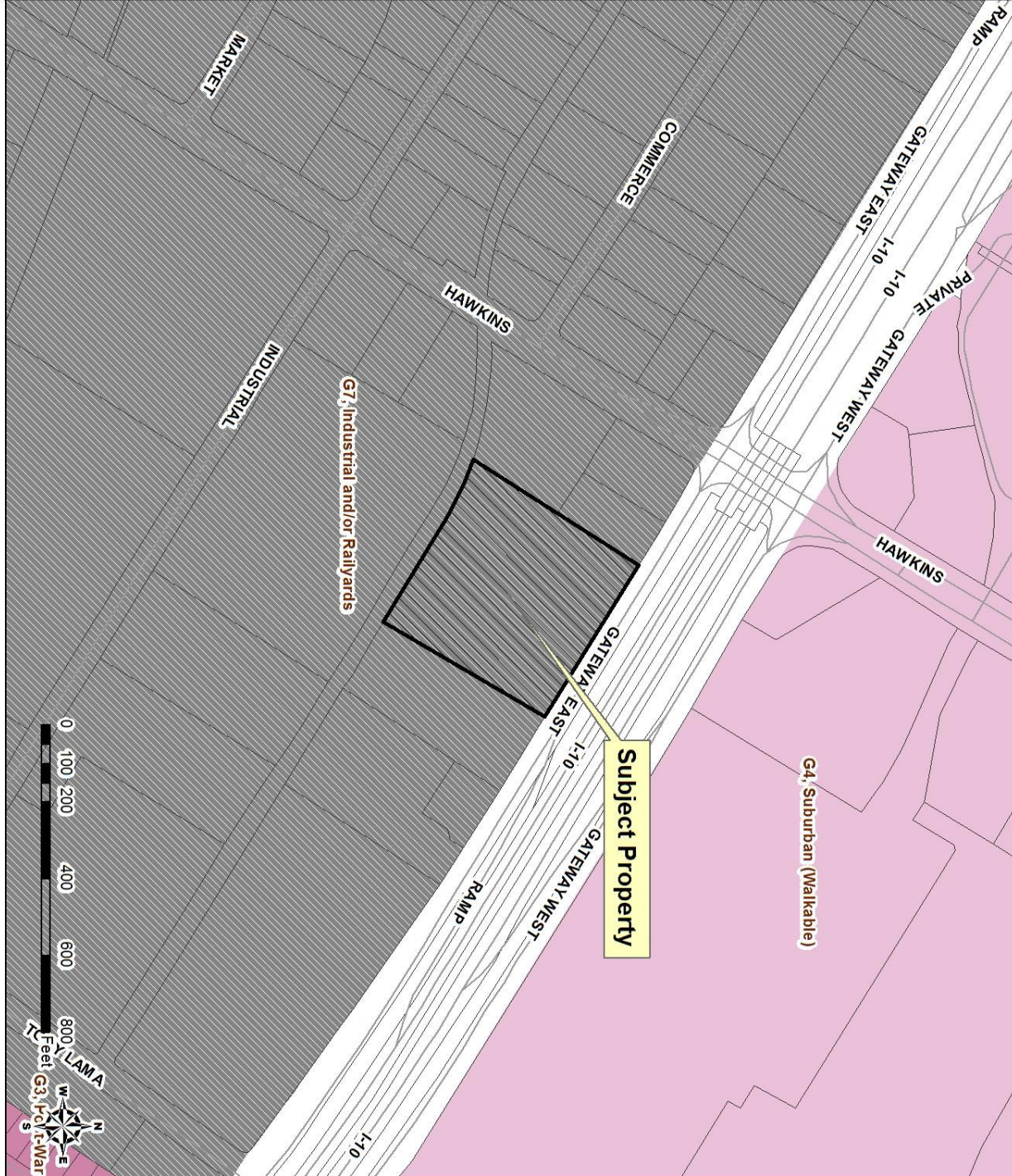
ATTACHMENT 2: AERIAL MAP

PZCR16-00004



**ATTACHMENT 3: FUTURE LAND USE MAP**

PZCR16-00004



ATTACHMENT 4: SPECIAL CONTRACT DATED OCTOBER 23, 1956

*Draft of a contract submitted  
East Side Industrial District  
(1st Section)*

CONTRACT

*Pat DeWitt*

This contract made this 23rd day of October 1956, by and between Pat DeWitt and Harry O. Rearick, copartners doing business as DeWitt & Rearick, hereinafter called First Parties, and the City of El Paso, hereinafter called Second Party, witnesseth:

First Parties have applied to Second Party for the approval of a subdivision map or plat styled the East Side Industrial District, as per copy of said map and plat attached hereto and made a part hereof, and whereas the Planning Commission of the City of El Paso has raised some objection to the use of said property because of its location and to remove objections to the same First Parties have consented if the property is rezoned as requested and the plat approved, to place the hereinafter described restrictions therein:

(1) No premises or building in said district shall be used for other than industrial, commercial and warehousing purposes.

(2) None of said building sites designated on said map or plat may be used for any purpose or use which would constitute a nuisance or which would cause the emission of odors which are injurious or noxious to persons.

(3) No building or structure shall ever be erected on said building sites which shall be nearer than 35 feet to the property line of the road now designated as P.M. 2233 or nearer than 25 feet to the line of any other established access road or frontage road or any cross streets or nearer than 15 feet to the side line of any property.

(4) No structures (including billboards) shall be erected within the areas required for <sup>of and</sup> front yard, side street yards without the approval of the City Council.

(5) No billboard or advertising signs other than those identifying the name, business, and products of the person or firm occupying the premises shall be permitted <sup>ALL SUCH STRUCTURES SHALL BE AFFIXED TO THE</sup> on any building. No billboard or identifying sign shall be erected to a height greater than five feet higher than the main building on the same site. A sign not to exceed 10' x 20' in size offering the premises for sale or lease may be erected.

(6) Nonaccessory building<sup>or</sup> use shall be construed to permit the keeping of articles, goods, or materials in the open or exposed to public view on the front one-third of the parcel. When necessary to store or keep such materials in the open, the lot or area shall be limited to the rear two-thirds of the property and this area shall be screened by a masonry fence six feet in height measured from the grade of the ground on the high side.

Building sites in the East Side Industrial District shall not be used for any of the following businesses:

The manufacture of paper.  
Storage in bulk of junk or secondhand material.  
Public blacksmith.  
Public horseshoeing.  
Public wagon shop.  
Public veterinary hospital.  
Public stable.  
Dairy.  
Iron foundry.  
Butane or propane.  
Automobile wrecking.  
Operation of amine or a quarry.

or for the manufacture, storage or distribution of explosives including:

*check all spelling*

Acetylides.  
Azides.  
Chlorates.  
Dynamite.  
Blasting gelatin.  
Fulminates. (FULMINATES)  
Anhydrous hydrazine.  
Ammonium nitrate.  
Dinitroresorcinol.  
Dinitrotoluene.  
Guanidine nitrate.  
Guncotton (Cellulose, Nitrate or Pyroxylin).  
Hexamine.  
Nitroglycerine. - 1  
Petn.  
Picric Acid.  
Tetryl.  
Cylonite or Hexogen.  
Dinui.  
Petryl.  
TNT  
Perchlorates (when mixed with carbonaceous materials)  
Black powder.  
Greek fire.  
Fireworks.  
Permanganates.  
Peroxides.

(7) Off-street parking facilities on the premises (in back of the front yard line) shall be provided on each building site to provide adequate space for customers, employees and tenants of the business on said sites.

(3) No loading docks will be permitted to front on the highway now known as F.M. 2233 and provisions for the handling of freight by rail or otherwise shall be provided on the sides of building which do not face a frontage street and all other loading docks shall be located at least 75 feet from the front property line of the site.

(9) No plant of any nature shall create noise in excess of the limits in the following table:

Maximum Sound Pressure Level in Decibels 0.0002 dynes per sq. Centimeter.

<u>Octave Band in Cycles per Second</u>	<u>Resident<sup>2</sup> Dist. Boundaries</u>	<u>Industrial Dist. Boundaries</u>
0-75	72	79
75-150	63	74
150-300	55	66
300-600	49	59
600-1200	44	53
1200-2400	39	47
2400-4800	34	41
above 4800	32	39

Objectionable noises, due to intermittence, beat frequency or shrillness shall be muffled so as not to become a nuisance to properties in or outside the District.

Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association. Measurements are to be taken at the property lines of the site.

(10) No plant shall permit emission of smoke from any source whatever during normal operation of a density greater than that density described as No. 1 on the Ringlemann Chart.

For the purpose of grading the density of smoke, the Ringlemann Chart, as published and used by the United States Bureau of Mines which is hereby made a part of these restrictions shall be the standards.

(11) No plant shall employ any process that will emit any dirt, dust, sprays, or mists into the air that will be transmitted beyond their property lines during normal operations.

(12) Incandescent lights shall be so located and shielded that no incandescent light source will be directly visible from the right of way of F.M. 2233. Direct or reflected light in a horizontal plane at a height of 6' at the right of way line of F.M. 2233 shall not exceed an intensity of 20 footcandles.

(13) No plant shall emit any toxic or corrosive gas under any condition.

(14) All welding and heating operations normal to any plant shall be screened from <sup>the</sup> view of adjacent properties or roadways. No operation shall be carried on that would produce heat <sup>2</sup> which the operation is located as measured in a horizontal plane to a distance of 24 feet above the ground level of the site. *omission*

(15) All sites shall be landscaped and maintained by the planting of grass in the front set back area, ~~and~~ <sup>T</sup> the planting of evergreen shrubs on an average of every twenty feet of building width shall be required.

(16) Development of all parcels shall conform to the requirements of the Comprehensive Zoning Ordinance of the City of El Paso.

The above agreement by First Parties shall constitute covenants running with the land and easements and servitudes thereon and be binding on First Parties and their successors in title and may be enforced by Second Party by injunction or any other remedy.

The City Council of the City of El Paso may release the above restrictions or any one or number of them in whole or in relation to any particular site, without the consent of any third person who may be benefitted thereby.

site, without the consent of any third person who may be benefitted thereby.

Witness the following signatures and seal:

  
Pat DeWitt

  
Harry O. Rearick

THE CITY OF EL PASO

by   
Mayor

ATTEST:

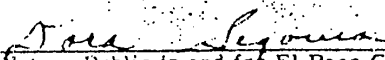
  
City Clerk

THE STATE OF TEXAS |

COUNTY OF EL PASO |

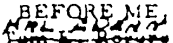
BEFORE ME, the undersigned authority, on this day personally appeared Pat DeWitt and Harry O. Rearick, dba DeWitt & Rearick, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 22<sup>nd</sup> day of October 1956.

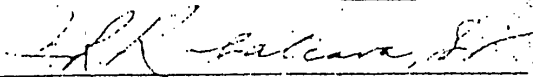
  
Notary Public in and for El Paso County, Texas  
Dora Segovia

THE STATE OF TEXAS |

COUNTY OF EL PASO |

BEFORE ME, the undersigned authority, on this day personally appeared ~~Pat DeWitt and Harry O. Rearick~~ , Mayor of the City of El Paso, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged before me in my county aforesaid that he had executed the same for the purposes and consideration and in the capacity therein expressed, and as the act and deed of the City of El Paso.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 25<sup>th</sup> day of October 1956.

  
Notary Public in and for El Paso County, Texas.